

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed March 2, 2006. At the time of the Final Office Action, Claims 1-43 were pending in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejection

The Examiner rejects Claims 1-43 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0219029 issued to Pickett (hereinafter "*Pickett*") in view of U.S. Patent No. 4,839,640 issued to Ozer et al. (hereinafter "*Ozer*"). "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." M.P.E.P. § 706.02(j) (citing *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985)). Applicants respectfully submit that the Examiner does not present either to support the rejection under 35 U.S.C. § 103(a).

Applicant respectfully submits that the combination fails to disclose, teach, or suggest each limitation recited in Applicant's claims. The Examiner first opines that *Pickett* discloses a system having a component for "accepting packets in response to a power failure," but then concedes that *Pickett* does not disclose "*selectively* accepting packets in response to a power failure." *Office Action*, p. 4 (emphasis added). The Examiner then relies on *Ozer* for the disclosure of a system that "*selectively*" accepts packets in response to a power failure. *Office Action*, p. 4-5.

More particularly, the Examiner cites the text of paragraph [0379] on page 41<sup>1</sup> of *Pickett* as support for the proposition that *Pickett* discloses a system having a component for "accepting packets in response to a power failure." Contrary to the Examiner's conclusion, though, this passage does not disclose this aspect of the claimed invention. Paragraph [0379] teaches only a system that prioritizes the *transmission* of packets to optimize QoS.

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<sup>1</sup> The Office Action mistakenly identifies this text as "column 41 lines 1-10," but the Examiner clarified this reference during a brief telephone call on April 20, 2006.

Paragraph [0379] makes no disclosure related to *accepting* packets, nor does it discuss taking *any* action in response to a power failure.

The Examiner's reliance on *Ozer* is equally misplaced. *Ozer* does not disclose, teach, or suggest "selectively accepting packets in response to a power failure." The Examiner refers to column 2, lines 30-34; column 5, lines 1-5; and the Abstract, lines 8-11 in support of his rejections, but the concept of selectively accepting packets in response to a power failure is completely foreign to these references. Instead, *Ozer* provides for a security, or access control, system that grants access to controlled areas by relying on limited information stored on an individual card reader in the area when a central console operation fails. Col. 2, ll. 30-34. Therefore, *Pickett* and *Ozer*, alone or in combination, fail to disclose, teach, or suggest at least one limitation of the Applicant's claims. Accordingly, Applicant respectfully requests reconsideration and allowance of independent Claim 1 and its dependents.

Independent Claims 24, 34, 36, and 37 each recite certain limitations that, for reasons substantially similar to those discussed with reference to independent Claim 1, *Pickett* and *Ozer*, alone or in combination, do not disclose, teach, or suggest. Therefore, Applicant respectfully requests reconsideration and allowance of independent Claims 24, 34, 36, and 37 together with their dependents.

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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. However, if this is not correct, the Commissioner is hereby authorized to charge any additional amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact its attorney, Thomas J. Frame, at (214) 953-6675.

Respectfully submitted,  
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